

*Minutes  
Approved*

*Larry Ambree  
retiring 2/28/18;  
thanks for the  
quality of his work.*

**COMMONWEALTH OF KENTUCKY  
Claims Commission  
Agenda  
February 27, 2018**

The Kentucky Claims Commission received 43 negligence claims filed against the Commonwealth during the month of January, 2018. Angela reports that 39 claims were set up and, of those, only seven (7) were over \$2,500.00.

Investigators Angela Robertson and Raymond Shields decided 48 claims under \$2,500.00 in January, 2018. Angela reports that 31 of these claims were dismissed and 17 were awarded, for a total amount awarded of **\$10,810.87**.

At its meeting on January 23, 2018, the Kentucky Claims Commission dismissed four (4) negligence claims and awarded three (3) negligence claims totaling \$207,500.00. Together with the claims investigated in-house, the Claims Commission dismissed a total of 35 negligence claims and awarded a total of 20 negligence claims for a total amount awarded of **\$218,310.87** in January, 2018.

*New Resp to be filed 3/1/18. Public hearing set  
for 10am on 3/29/18.*

FOR INSTRUCTIONS FROM THE COMMISSION:

**BC-2012-064**

Estate of Brian P. Murphy v. University of Louisville

Notes: Order to Comply or Show Cause rendered by the Commission on 2/8/18.

*Response filed 2/26/18*

Counsel's Recommendation: ~~Enter an Order of Dismissal for failure to abide by the orders of this tribunal.~~ *Assign to HO Howard for further proceedings.*

**BC-2016-063, BC-2016-064, BC-2016-065 and BC-2016-066 (Consolidated)**

William F. Dolt; Brandi Dolt; Brandi Dolt as Next Friend of William Gabriel Dolt, a Minor; and Brandi Dolt as Next Friend of Sophia Dolt v. Transportation Cabinet, Dept. of Highways

Notes: Agreed Order of Dismissal filed as these consolidated claims were settled in the Jefferson Circuit Court, Case No. 16-CI-317.

Counsel's Recommendation: Enter the Agreed Order of Dismissal. ✓

FULL COMMISSION REVIEW:

**BC-2017-278**

Melody Duran v. Transportation Cabinet, Dept. of Highways

Notes: Claimant filed for damages to her motorcycle due to poor road conditions. Claimant stated that the road had a dip in it after construction, causing the bottom of her motorcycle to hit the dip and leaving a gash and loss of all of the oil. Claimant has insurance with a deductible of \$500.00 so the claim has been reduced to that amount. Claimant stated negligence for Respondent's failure to fix the road. Claimant provided photographs of the incident location. Respondent submitted an answer to the claim stating that maintenance crews had recently installed a new drain in the area and that new

roadway material may settle and cause a dip in the roadway. Respondent stated that Supervisor Chris Pollett confirmed there were "Bump Ahead" signs in place on both sides of the culvert. The claim was dismissed due to insufficient information. Respondent has no control over whether settling will occur in any given location and cannot anticipate the development of such a hazard. Claimant did not provide any additional information in requesting the FCR. Investigator recommends that the Commission uphold the dismissal of this claim.

Counsel's Recommendation: For discussion.

**BC-2017-280**

Joe Iracane v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Claimant has filed a claim due to damage to his vehicle from a limb falling at John James Audubon Park. The limb caused \$2,566.69 in damage to Claimant's vehicle; however, the insurance deductible on the vehicle is \$2,000.00 so the claim has been reduced to that amount. Claimant stated negligence on the part of the Respondent due to the tree being located in a state park on Respondent's property. Claimant's vehicle was parked under the tree. The park ranger instructed staff to remove the limb from Claimant's vehicle. Respondent submitted an answer to this claim stating that the damage done was the result of a natural occurrence against which Respondent does not possess a duty to guard. Respondent stated that it did not possess any knowledge that the subject limb was in poor health or that a fall was imminent. The claim was dismissed due to insufficient evidence. KRS 411.190(3) states, "An owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of dangerous conditions, use, structure, or activity on the premises to persons entering for such purposes." Claimant requested a full commission review and submitted a response to the Commission's Findings of Fact stating that he did not file the claim with his insurance so he should be awarded the full amount of damages of \$2,556.69. There was limited parking and all of the parking spots for the cabin rentals were under trees and the park ranger told him that if he filed a claim he should be paid for damages. The Investigator recommends that the Commission uphold the dismissal due to KRS 411.190(3).

Counsel's Recommendation: For discussion.

MOTIONS:

**BC-2017-524**

Angela Franklin v. Cabinet for Health & Family Services

Notes: Respondent's Motion to Dismiss and Claimant's Motion to Amend Claim filed in response.

Counsel's Recommendation: ✓ Render an order adding the Finance and Administration Cabinet as a respondent and dismissing the Cabinet for Health and Family Services as a respondent.

**BC-2017-543**

Gary Shane Morris v. Eastern Kentucky University

Notes: Respondent's Motion to Dismiss and Claimant's response filed thereto.

Counsel's Recommendation: For discussion. ✓ Counsel's inclination is to dismiss as a collateral and dependent claim, pursuant to KRS 49.020(1).

RECOMMENDED ORDERS:

**BC-2016-311**

Christopher Timms v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer Patrick Flannery's Recommended Order of Dismissal for the Claimant's failure to prosecute this matter.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2016-612**

Jessie LaPointe v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing Officer James Howard's Recommended Order of Dismissal denying payment of the claim.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2017-025**

Mary P. Messner v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing Officer James Howard's Recommended Order of Dismissal with prejudice at the written request of the Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2017-145**

Joycelyn Hardin v. Transportation Cabinet, Dept. of Highways

Notes: Hearing Officer James Howard's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2017-163**

Cindy K. Bradley v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing Officer Tim Cocanougher's Recommended Order of Dismissal with prejudice at the written request of the Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2017-197**

Terrence Sims v. Justice & Public Safety Cabinet, Dept. of Corrections

Notes: Hearing Officer Tim Cocanougher's Findings of Fact, Conclusions of Law and Recommended Order denying payment of the claim.

Counsel's Recommendation: ~~For discussion.~~

*Dismiss*

**BC-2017-275**

Charlie Pierce v. University of Kentucky

Notes: Hearing Officer James Howard's Findings of Fact, Conclusions of Law and Recommended Order dismissing the claim with prejudice.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2017-304**

Yogi Perkins v. Tourism, Arts & Heritage Cabinet, Dept. of Parks

Notes: Hearing officer Tim Cocanougher's Recommended Order of Dismissal with prejudice for Claimant's failure to prosecute this matter.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

**BC-2017-450**

Jeffrey Cable v. Justice & Public Safety Cabinet, Dept. of State Police

Notes: Hearing Officer Jim Howard's Recommended Order of Dismissal with prejudice at the written request of the Claimant.

Counsel's Recommendation: Adopt the recommendation of the hearing officer.

***Total number of Claims: 15***